IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 3739 of 2006

GANESH
V/S
LAXMI NARAYAN & ORS.

Mr. SAJJAN SINGH, for the appellant / petitioner

Date of Order : 24.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

By the impugned order, the learned trial Court has dismissed the petitioner's application dated 12.9.2003, filed under Section 144 CPC, observing that the suit was decided on 22.8.1995, thereafter an application under Section 151 & 152 CPC was also decided in 1998 i.e. 1.7.98, and the reliefs claimed in the present application are not maintainable in this application, as the matter already stands decided.

In my view, even according to the petitioner, the possession was taken by the receiver, the plaintiff, under the order of the trial Court dated 9.12.93, and the suit was dismissed on 22.8.95. At the time, when the suit was decided, the petitioner should have invited the attention of the learned trial Court, for passing appropriate orders

for release of the property from receivership. However, even if that was not done, at best he could file application under Section 144 CPC at that time itself; that was not done, rather application under Section 152 CPC was filed, which too was dismissed way-back on 1.7.98, and even thereafter, the present application has not been filed, even within the residuary period of limitation, provided under Section 137 of the Limitation Act.

In that view of the matter, though for different reasons, I do not find any ground to interfere with the impugned order, dismissing the application. The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

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